

REMARKS

Claim Rejections -35 USC §103

Claims 40-43, 48, 51, 54, 56-57, 59-62, 65, 67-68, 70-71 & 73-78 have been rejected under 35 U.S.C. 103(a) as being unpatentable over McKay Patent Application Publication (U.S. 2001/0036832) in view of Kulesz et al. (U.S. 6,930,596).

Claims 40-78 were added in the previous response. The claim language is illustrated by portions of the independent claims listed below (Emphasis added).

"40. A system for providing assistance to emergency personnel which comprises:

apparatus for first detecting the presence of personnel within a protected premises;

apparatus for continuously storing data defining the location of personnel within a protected premises;

apparatus for **subsequently detecting** an imminent threat selected from the group consisting of fire, seismological and terrorist events; ..."

"60. A system for providing assistance to emergency personnel which comprises:

apparatus for first detecting the presence of personnel within a protected premises and apparatus for storing the location of personnel within protected premises that includes nonvolatile memory and which is capable of storing such data for a plurality of time periods;

apparatus for **subsequently detecting** an imminent threat selected from the group consisting of fire, seismological and terrorist events; ...”

“73. A method for providing assistance to emergency personnel which includes:

detecting the presence of personnel within a protected premises;

storing data defining the location of personnel within a protected premises;

detecting a **subsequent** imminent threat selected from a group consisting of a fire, seismological and terrorist events; ...”

Thus, all of the claims now pending make clear that the detection of a subsequent threat occurs after first detecting the presence of personnel and storing data defining the location of the personnel within a protected premises. (For example, the protected premises might be monitored for years before any fire, seismological and/or terrorist event is detected.)

The McKay reference describes the background of that invention with:

“[0002] Fires in the United States claim the lives around one hundred firefighters each year. A review of this situation by the National Fire Protection Association suggested the application of new technologies for command centers, risk management and individual firefighters. Presently firefighters wear an alarm that emits an audible sound when they have not moved within the last 30 seconds. In the confusion of a fire this audible alarm has provided very little assistance in finding down and injured firefighters. The sound is muffled by the fire and provides only the slightest clue as to the whereabouts of the downed firefighter. Other problems include the inability of the commander to have real time information on the fire as well as the location of the personnel and equipment assets.” Thus, it is abundantly apparent that the reference is clearly directed to monitoring the location of firefighters after a fire

has started. There is not even the slightest suggestion, much less a description of any apparatus that would monitor a protected premises so that in the event a fire, seismological or terrorist event occurs it would be easier to find the people that were in the building before the occurrence of the fire, seismological or terrorist event. There is not even the slightest suggestion, much less a description of any apparatus that would in any way track or determine the location of anyone other than firemen who entered the building after the fire started for the express purpose of putting out the fire. Thus, the reference clearly does include:

apparatus for first detecting the presence of personnel within a protected premises and apparatus for storing the location of personnel within protected premises that includes nonvolatile memory and which is capable of storing such data for a plurality of time periods;

apparatus for **subsequently detecting** an imminent threat selected from the group consisting of fire, seismological and terrorist events;..."

The Examiner states:

"The reference of McKay does not specifically mention exactly a term as subsequently detecting as claimed by the applicant."

It is respectfully submitted the reference not only does not use the terms "subsequently detecting", the reference does not show or suggest subsequent detection of a fire, seismological or terrorist event after determining the location of anyone, much less the occupants of the building or other protected premises prior to the occurrence of an event selected from the group consisting of fire, seismological and terrorist events.

The Examiner further asserts:

"However, Kulesz teaches a communication network system which can be employed by fire department, police, or emergencies rescue team to response (sic) as detecting (20,61-65) of hazardous events as high temperature,

chemical, biological, nuclear, explosive, dirty bomb (72), earthquake and so on wherein the hazardous material is detected to a subsequent, different location is monitored by a controller (70) [figs.3-4, col.5, lines 39-52 and col.7, line 62 to col.8, line 33].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Kulesz in the system of McKay for detecting & monitoring subsequent fire, subsequent earthquake, subsequent bomb conditions.” —

Applicant acknowledges that Kulesz teaches a network that includes multiple sensors and emergency responders. In other words, the merely uses a network to detect threats and warn of threats. Nothing in the Kulesz reference remotely describes or suggests the desirability of establishing the location of any person at any time.

It is respectfully submitted that the combination of (1) the McKay reference that teaches tracking fireman **after** they enter a building **after** the building is deemed to be burning with (2) the Kulesz reference that never tracks the location of any person at any time does not show or suggest

apparatus for first detecting the presence of personnel within a protected premises and apparatus for storing the location of personnel within protected premises that includes nonvolatile memory and which is capable of storing such data for a plurality of time periods;

apparatus for **subsequently detecting** an imminent threat selected from the group consisting of fire, seismological and terrorist events;...”

Stated another way, the combination of a reference that teaches tracking fireman **after** they enter a building after the building is deemed to be burning with a reference that never tracks the location of any person at any time cannot even be rationally argued to teach the claimed invention.

Applicant does not in any way concede that the combination of references would teach the present invention. Moreover, it is respectfully submitted that the combination of references is not permissible because it fails to meet the established standard:

Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376, 1385 (Fed. Cir. 2001) ("In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention.");

In re Dance, 160 F.3d 1339, 1343 (Fed. Cir. 1998) ("When the references are in the same field as that of the applicant's invention, knowledge thereof is presumed. However, the test of whether it would have been obvious to select specific teachings and combine them as did the applicant must still be met by identification of some suggestion, teaching, or motivation in the prior art, arising from what the prior art would have taught a person of ordinary skill in the field of the invention.");

In re Fine, 837 F.2d 1071, 1075 (Fed. Cir. 1988) (there must be "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references");

Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143 (Fed. Cir. 1985) ("When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.");

There is not the slightest suggestion in McKay that when firefighters enter a burning building and are tracked after the detection of the fire and the firemen are called, that thereafter the Kulesz network system should be: "...detecting & monitoring subsequent fire, subsequent earthquake, subsequent bomb conditions." Thus, there is not the slightest suggestion, motivation, or teaching in McKay that would have led a person of ordinary skill in the art to select the cited references and combine them in the way suggested by the rejection.

Similarly, there is not the slightest suggestion, motivation, or teaching in Kulesz that

the Kulesz network for sensing threats and alerting responders should be expanded to track firefighter responders that enter a burning building as described in McKay. In fact, as noted above, Kulesz does not include the slightest suggestion, motivation, or teaching that any person should be tracked or located anywhere.

It is respectfully submitted that the pending claims are allowable and such action is requested.

Should a petition for an Extension of Time be necessary for the timely reply to the outstanding office action (or such a petition has been made and an additional extension is necessary) petition is hereby made in the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account Number 19-2635 under Attorney Docket Number H0006017-0555.

Respectfully submitted,



Robert S. Smith
Registration No. 24,681
Law Offices of Robert S. Smith
Attorney for Applicant

1131-0 Tolland Turnpike,
Suite 306
Manchester, CT 06040
Telephone: (860) 983-5838
Facsimile: (860) 371-3814
RSS/AE

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below
03/03/2006

ROBERT S. SMITH

A handwritten signature in black ink, appearing to read 'R. S. Smith', with a stylized, sweeping flourish at the end.